

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

UNITED STATES OF AMERICA

V.

SUZANNE EDITH JOHNSTON

§
§
§
§
§

CRIMINAL NO. 6:08-CR-56-001

**REPORT & RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

On October 18, 2011, the Court conducted a hearing to consider the government's petition to revoke the supervised release of Defendant Suzanne Edith Johnston. The government was represented by Alan Jackson, Assistant United States Attorney for the Eastern District of Texas, and Defendant was represented by Tonda Curry.

Defendant originally pled guilty to the offense of possession of stolen mail, a Class D felony. The offense carried a statutory maximum imprisonment term of 5 years. The United States Sentencing Guideline range, based on a total offense level of 12 and a criminal history category of V, was 27 to 33 months. On January 20, 2009, District Judge Leonard Davis sentenced Defendant to 27 months imprisonment followed by 3 years supervised release subject to the standard conditions of release, plus special conditions to include financial disclosure; restitution of \$8,007.52; \$100 special assessment; no new credit, additional lines of credit, or gambling unless her financial obligation was paid in full; and substance abuse aftercare. On December 18, 2009, Defendant completed the term of imprisonment and began the term of supervised release.

Under the terms of supervised release, Defendant was prohibited, in relevant part, from committing another federal, state, or local crime. In its petition, the government alleges that

Defendant violated her term of supervised release by committing the offense of Driving While Intoxicated on November 29, 2010 and December 6, 2010.

If the Court finds by a preponderance of the evidence that Defendant violated the conditions of supervised release by committing the offense of Driving While Intoxicated, Defendant will have committed a Grade C violation. U.S.S.G. § 7B1.1(a). The Court shall then revoke supervised release or extend the term of supervised release and/or modify the conditions of supervision. U.S.S.G. § 7B1.3(a)(2). Considering Defendant's criminal history category of V, the Guideline imprisonment range for a Grade C violation is 7 to 13 months. U.S.S.G. 7B1.4(a).

At the hearing, the parties indicated they had come to an agreement to resolve the petition whereby Defendant would plead true to the above-referenced allegations in the government's petition. In exchange, the government agreed to recommend that Defendant serve 13 months imprisonment with 1 year supervised release to follow.

Pursuant to the Sentencing Reform Act of 1984, and the agreement of the parties, the Court **RECOMMENDS** that Defendant be committed to the custody of the Bureau of Prisons ("BOP") for a term of imprisonment of 13 months, with a year of supervised release to follow. Upon Defendant's request to report to the BOP in 30 days, the Court **RECOMMENDS** Defendant report to the BOP on a date provided by the BOP.

Defendant has waived her right to object to the findings of the Magistrate Judge in this matter so the Court will present this Report and Recommendation to District Judge Leonard Davis for adoption immediately upon issuance.

So ORDERED and SIGNED this 20th day of October, 2011.